

Decision folder



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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

NOV 29 2001

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

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In the matter of:

MARK AARON SUTTER
(CRD #1913698)
6823 East Bonita
Scottsdale, Arizona 85253,

Respondent.

DOCKET NO. S-03301A-01-0000

DECISION NO. 64246

ORDER REVOKING
SECURITIES SALESMAN
REGISTRATION

I.

INTRODUCTION

On September 26, 2001, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order of Revocation and for Other Affirmative Action ("Notice"), against Mark Aaron Sutter ("SUTTER").

II.

FINDINGS OF FACT

1. Pursuant to A.R.S. § 44-1972, A.A.C. R14-4-306, and A.R.S. § 44-1962, the Notice advised SUTTER that he would be afforded an opportunity for a hearing regarding the allegations made in the Notice, if he requested a hearing in a writing filed with Docket Control of the Commission within ten days after receiving service of the Notice. The Notice further advised SUTTER that, if he failed to request a hearing within the time period specified, the Commission could, without a hearing, enter an order against him granting the relief requested by the Division in the Notice.

1 2. On September 28, 2001, the Division effected personal service of the Notice upon
2 SUTTER at the address shown in the caption above.

3 3. More than ten days have passed, and SUTTER has failed to request a hearing.

4 4. SUTTER has been a registered securities salesman in Arizona since at least 1989.
5 He was associated with Heritage West Securities, Inc., from May 6, 1997, through March 16, 2000,
6 and since that time he has not been registered in association with a dealer. Consequently, his
7 registration is currently in suspension pursuant to A.R.S. § 44-1949. SUTTER applied for
8 registration in association with Rosenthal Collins Securities, L.L.C., on or about March 28, 2000,
9 but that application was terminated on or about October 19, 2000, without having resulted in a
10 registration. SUTTER's last known address is 6823 E. Bonita, Scottsdale, Arizona 85253.

11 5. On or about February 9, 2001, NASD Regulation, Inc. ("NASD"), revoked
12 SUTTER's NASD registration, in connection with NASD Complaint Number C3A000015.

13 6. The ground for the NASD revocation was SUTTER's failure to pay a \$26,000 fine
14 that he had agreed to pay, pursuant to an Acceptance, Waiver & Consent, which the NASD had
15 accepted on June 28, 2000 (the "AWC"). The \$26,000 fine included disgorgement of financial
16 benefits received by SUTTER in the amount of \$11,000. In the AWC, SUTTER had, without
17 admitting or denying the alleged violations, consented to the entry of findings that he had:

18 a. During the period from January 1, 1996, to February 28, 1997, participated
19 in private securities transactions, with respect to notes and common stock of EvenTemp
20 Corporation, without providing prior written notice to the dealer firm with which he was
21 associated at the time of the transactions, and

22 b. During the period from April 1997 to April 1998, failed to disclose to the
23 dealer firm with which he was associated that he was the beneficial owner of common
24 stock of EvenTemp Corporation that was held in the account of another person.

25 7. The NASD is a self-regulatory organization ("SRO") in the securities industry, and
26 it is registered as such under the Securities Exchange Act of 1934.

8. Accordingly, SUTTER is "subject to an order of . . . an SRO . . . revoking membership or registration as a broker" as specified in A.R.S. § 44-1962(A)(8).

III.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act of Arizona, A.R.S. § 44-1801, *et seq.*

2. The Notice was effectively served upon SUTTER on September 28, 2001, pursuant to A.R.S. § 44-1972, A.A.C. R14-4-304 and R14-4-306. The Notice effectively advised SUTTER of his opportunity to request a hearing, and advised him what the effect would be of his failure to do so.

3. SUTTER failed to request a hearing within the time limit specified by the statute and rules just cited.

4. Grounds exist to revoke SUTTER's registration as a securities salesman in Arizona pursuant to A.R.S. § 44-1962. Specifically, SUTTER:

a. Is subject to an order of an SRO revoking his membership or registration as a broker, as specified in A.R.S. § 44-1962(A)(8);

b. Lacks integrity and is not of good business reputation, as specified in A.R.S. § 44-1962(A)(4); and

c. Has engaged in dishonest and unethical practices in the securities industry,
as specified in A.R.S. § 44-1962(A)(10).

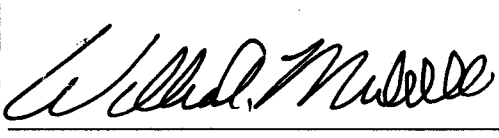
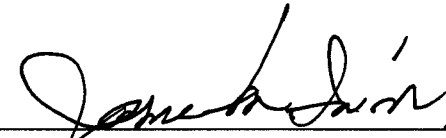

IV.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law set forth above, the Commission finds that the following Order is appropriate, in the public interest, and necessary for the protection of investors:

1 IT IS ORDERED, pursuant to A.R.S. § 44-196, that MARK AARON SUTTER's
2 registration as a securities salesman is revoked.

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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6 CHAIRMAN

COMMISSIONER

COMMISSIONER

7 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
8 Executive Secretary of the Arizona Corporation
9 Commission, have hereunto set my hand and caused the
10 official seal of the Commission to be affixed at the
11 Capitol, in the City of Phoenix, this 29TH day of
12 November, 2001.

13 
14 BRIAN C. McNEIL
15 Executive Secretary

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17
18 DISSENT

19 This document is available in alternative formats by contacting Shelly M. Hood, ADA Coordinator,
20 voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

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